

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

BERNELL DUPLESSIS, individually,
Plaintiff,

v.

GOLDEN STATE FOODS, a Delaware
Corporation doing business in Washington
State; DANIEL VAN HOOZER, individually,
and JANE DOE VAN HOOZER, individually,
and the marital community composed thereof

CASE NO. C06-5631RJB

ORDER ON MOTION FOR
RECONSIDERATION AND
MODIFICATION OF THE
COURT'S SUMMARY
JUDGMENT ORDERS OF APRIL
16, 2007

This matter comes before the Court on Defendants' Motion for Reconsideration and Modification of the Court's Summary Judgment Orders of April 16, 2007 (Dkt. 60). The Court has considered the motion and the remainder of the file herein.

I. BACKGROUND

On April 16, 2007, the Court granted the defendants' motions for summary judgment but did not dismiss the plaintiff's claims for assault and battery. Dkt. 59 at 18 ("The defendants' briefs do not address the plaintiffs' assault and battery claims. These are therefore the only claims remaining for trial."). The defendants move for reconsideration on the grounds that their motions sought dismissal of all claims. Dkt. 60 at 1. The defendants contend that they "established through [their] extensive briefing and citations to Plaintiff's deposition that Plaintiff has no factual support

1 for his claims of assault and battery.” Dkt. 60 at 1-2. The defendants do not cite the portions of
2 their briefs establishing that the plaintiff’s assault and battery claims are without merit.

3 **II. DISCUSSION**

4 The burden on a motion for reconsideration is high:

5 Motions for reconsideration are disfavored. The court will ordinarily deny
6 such motions in the absence of a showing of manifest error in the prior ruling or a
7 showing of new facts or legal authority which could not have been brought to its attention
earlier with reasonable diligence.

8 Local Rule CR 7(h)(1). The defendants offer new argument and authority regarding the assault
9 and battery claims and ask the Court to “convert this motion [for reconsideration] to Defendants
10 Motion for Summary Judgment on Plaintiff’s Assault and Battery Claims” if “the Court
11 determines that Defendants’ request is not properly the subject of a motion for reconsideration.”
12 Dkt. 60 at 2 n.1. Reconsideration is not appropriate here, but following the defendants’
13 suggestion will allow the Court to consider the merits of the parties’ positions, and will allow a
14 due process opportunity to brief and respond to the issue of whether the plaintiff has viable claims
15 for assault and battery.

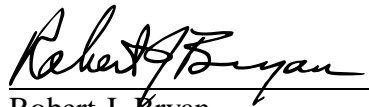
16 **II. ORDER**

17 Therefore, it is hereby

18 **ORDERED** that Defendants’ Motion for Reconsideration and Modification of the Court’s
19 Summary Judgment Orders of April 16, 2007 (Dkt. 60) is **CONVERTED** to a Motion for
20 Summary Judgment and is **RE-NOTED** for consideration on May 11, 2007. Pleadings may be
21 filed in accordance with the Local Rules.

22 The Clerk of the Court is instructed to send uncertified copies of this Order to all counsel
23 of record and to any party appearing pro se at said party’s last known address.

1 Dated this 19th day of April, 2007.

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4 Robert J. Bryan
United States District Judge